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EXTRAORDINARY

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PART II—Section 2

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LOK SABHA

The following Bills were introduced in Lok Sabha on 6th September, 1957:—

BILL No. 63 OF 1957

A Bill further to amend the Code of Civil Procedure, 1908.

BE it enacted by Parliament in the Eighth year of the Republic of India as follows:—

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 19 .

5 2. Rule 15 of Order XXXII of the First Schedule to the Code of Civil Procedure, 1908, shall be renumbered as Sub-rule (1) of that rule, and after the sub-rule (1) as so renumbered the following new sub-rule shall be added, namely:—

Amendment of the First Schedule.

10 “(2) The provisions contained in rules 1 to 14 so far as they are applicable shall also extend to the person, who on enquiry by the Government is found to be unheard of upto the date preceding the expiry of seven years.”

Application of Rules to person unheard of.

STATEMENT OF OBJECTS AND REASONS

According to the provisions laid down in Section 108 of the Indian Evidence Act a person unheard of will be taken as dead after expiry of seven years. But there is no provision in law how the estate of that man will be managed from the date of his disappearance upto the date preceding the said expiry. In particular there is no provision in law to institute suits or cases on his behalf when he is going to lose a right during the period of disappearance and before he is taken as dead. There is also no provision to contest on his behalf during such period in the event of his being sued. Even his near relatives, who might be managing his estate during such period without any right, might not know of the suits or cases instituted against him.

To protect the right of such person this amendment is necessary. Hence this Bill.

SUBIMAN GHOSE.

NEW DELHI;

The 25th July, 1957.

BILL NO. 55 OF 1957

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Eighth year of the Republic of India as follows:—

1. This Act may be called the Indian Penal Code (Amendment) Short title. Act, 195 .

XLV of 1860. 5 2. In section 304A of the Indian Penal Code, 1860 for the words Amendment of Section 304A. "of either description for a term which may extend to two years or with fine or with both", the words "for ten years and shall also be liable to fine" shall be substituted

STATEMENT OF OBJECTS AND REASONS

The road accidents are on the increase due to rash driving by certain sections of drivers of lorries, jeeps etc. It is therefore necessary that courts should be armed with more powers to award deterrent punishment according to the gravity of the offence. Hence this Bill.

NEW DELHI;

The 25th July, 1957.

SUBIMAN GHOSE.

BILL NO. 56 OF 1957

A Bill to provide for the restraint on sanyas diksha of a child.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Child Sanyas Diksha Restraint Act, 19

Short title,
extent and
commence-
ment.

5 (2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act unless there is anything repugnant in the subject Definitions.
10 or context,—

(1) “child” means a person of either sex who is under eighteen years of age;

15 (2) “court” means in the towns of Calcutta, Madras and Greater Bombay, a court of Presidency Magistrate and elsewhere, a court of a First Class Magistrate;

20 (3) “*sanyas diksha*” means renouncing worldly affairs and severing connections with the members of one’s natural family by, and initiation of, any child, by any person, into any religious order under the name of *sanyasi*, *yati*, *muni*, *suri*, *yogi*, *bairagi*, *mahant*, *chela*, *brahmachari*, *sadhu*, *fakir*, ascetic, saint or any other name.

Penalty for initiating into, or performing, conducting etc. of, *sanyas diksha*.

3. Whoever initiates any child into *sanyas diksha* or performs, conducts, directs, promotes or permits *sanyas diksha* of any child shall be punishable with simple imprisonment which may extend to three months and with fine.

Penalty for person having charge of child concerned in *sanyas diksha*.

4. (1) Where a child is initiated into *sanyas diksha*, any person, who having charge of the child, whether as parent or guardian, or in any other capacity, lawful or unlawful, does any act to promote the *sanyas diksha*, or permits the same to be performed, or negligently fails to prevent it from being performed, shall be punishable with simple imprisonment which may extend to three months and with fine.

(2) For the purpose of this section, it shall be presumed, unless and until the contrary is proved, that where a child has been initiated into *sanyas diksha*, the person having charge of such child has negligently failed to prevent the *sanyas diksha* being performed.

Offences under the Act to be cognizable.

5. Offences under this Act shall be cognizable.

Power to issue injunction prohibiting *sanyas diksha* in contravention of this Act.

6. (1) Notwithstanding anything to the contrary contained in this Act, the court may, if satisfied from information laid before it through a complaint or otherwise that a *sanyas diksha* of a child has been arranged or is about to be performed, issue an injunction against any of the persons mentioned in sections 3 and 4 of this Act prohibiting the performance of the *sanyas diksha*.

(2) The court may, either on its own motion or on the application of any person, direct that the person, if any, having the custody of the child shall produce or cause to be produced the child at such place and time and before such person as it appoints, and may make such order for the custody and protection of the person of the child and for the costs as it deems fit.

Sanyas diksha of a child to be null and void.

7. Every *sanyas diksha* of a child, whether performed before the commencement of the Act or afterwards, shall be null and void.

Jurisdiction for offences under the Act.

8. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no court lower than the court of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this Act.

Extra-territorial jurisdiction for offences under the Act.

9. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this Act may be tried by any court of a Presidency Magistrate or a Magistrate of the First Class within the local limits of whose jurisdiction the person charged is found.

V of 1898.

V of 1898.

STATEMENT OF OBJECTS AND REASONS

Some over-zealous persons have been indulging in activities of initiating young boys and girls in the order of monks and nuns though the children are not capable to understand and realise the implications and consequences of such initiation. In some cases such initiation leads to many undesirable results to individuals with serious repercussions to the society.

In order to secure that tender age of children is not abused and that childhood and youth are protected against exploitation and against moral and material abandonment, an immediate remedy for checking such practices is desirable. The Bill seeks to provide for penalty for initiating into, or performing, conducting etc. of *sanyas diksha* of a child and also for penalty for person in charge of child concerned in *sanyas diksha*. It also provides for holding *sanyas diksha* null and void. Provisions are also made for issue of an injunction prohibiting *sanyas diksha* of a child being performed and for issue of an order for custody, protection etc. of a child.

DIWAN CHAND SHARMA.

NEW DELHI;

The 27th July, 1957.

BILL No. 59 OF 1957

*A Bill to regulate and to make better provision for the administration
of public religious and charitable trusts in the Union Territory
of Delhi*

WHEREAS it is expedient to regulate and to make better provision for the administration of public religious and charitable trusts in the Union Territory of Delhi;

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

5

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Delhi Union Territory Public Trust Act, 19

(2) It shall extend to the whole of the Union Territory of Delhi. 10

(3) It shall come into force on such date as the Chief Commissioner may by notification in the Official Gazette appoint but the provisions thereof shall apply to a public trust or any class of public trusts on the date specified in the notification under sub-section (4).

(4) The Chief Commissioner, may, by notification in the Official 15 Gazette, specify the date on which the provisions of this Act shall apply to any public trust or any class of public trusts:

Provided that the Chief Commissioner may also by a like notification direct that from the date specified therein any public trust or

class of public trusts shall be exempt from the provisions of this Act:

Provided further that before a notification of such application or exemption is published, a draft thereof shall be published in the Official Gazette and in such other manner as may be prescribed for the information of persons likely to be affected thereby together with a notice specifying the date on or before which any objections or suggestions shall be received and the date on or after which the draft shall be taken into consideration.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) 'Board' means the Delhi Public Trusts Board constituted under section 8;

(2) 'Charity Commissioner' means the Charity Commissioner appointed under section 22;

(3) 'Hindu' includes Jain and Buddhist but not Sikh;

(4) 'Local Bodies' the expression Local Bodies shall mean and include the Delhi Municipal Committee, Notified Area Committee, Shahadara Municipal Committee, South Delhi Municipal Committee and such other Committees which may for the time being exist in the State under the Punjab Municipal Act, 1911, as extended to the State and the Delhi District Board;

(5) 'Manager' means any person (other than a trustee) who for the time being either alone or in association with some other person or persons administers the trust property of any public trust and includes:—

(a) in the case of a math, the head of such math.

(b) in the case of a wakf; a mutawalli of such wakf.

(c) in the case of a society registered under the Societies Registration Act, 1860, its governing body, if the property of the society is not vested in a trustee;

(d) in the case of a Society Registered under the Indian Companies Act, 1956, its Secretary or other in charge by whatever name known;

(6) 'math' means an institution for the promotion of the Hindu, religion presided over by a person whose duty it is to engage himself in imparting religious instructions for rendering spiritual

service to a body of disciples or who exercise headship over such body and includes places of religious worship or instruction which are appurtenant to the institution;

(7) 'Mutawalli' means any person by whatever designation known, appointed to administer any wakf either verbally or by or 5 under any deed or instrument or in accordance with the usage of such wakf or any other competent authority, and includes any person appointed by a mutawalli and the president or chairman of any committee or any person for the time being managing or administering any wakf property as such; 10

(8) 'Person interested in a temple, math, wakf, society or trust' means:—

(a) in the case of a temple, a person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in 15 the habit of partaking in the distribution of rights thereof;

(b) in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs;

(c) in the case of a wakf, a person who is entitled to receive any pecuniary or other benefit from the wakf, and includes a 20 person who has a right to worship or to perform any religious rite in a mosque, idgah, imambara, dargah, maqbara or other religious institution connected with the wakf or to participate in any religious or charitable institution under the wakf;

(d) in the case of a society registered under the Societies 25 Registration Act, 1860, any member of such society, and

XXI of 1860.

(e) in the case of any other public trust, any beneficiary;

(9) 'Prescribed' means prescribed by rules;

(10) 'Public Securities' means,—

(a) securities of the Union Government or any State Gov- 30 ernment;

(b) stock, debentures in Railway or other companies the interest or dividend on which has been guaranteed by the Central or any State Government;

(c) debentures or other securities for money issued by or 35 on behalf of any local authority in exercise of the powers conferred by an Act of the Central or State Legislature;

(d) a security expressly authorised by an order which the Chief Commissioner makes in this behalf;

(11) 'Public trust' means an express or constructive trust for either a public, religious or charitable purpose or both and includes a temple, math, a dharamshala, a wakf, a dharamada or any other religious or charitable endowment and a society formed either for
 XXI of 1860, 5 a religious or charitable purpose or for both and registered under the Societies Registration Act, 1860;

(12) 'rules' means rules made under this Act;

(13) 'scrip' includes security, stock, shares and debentures;

(14) 'Secretary' means a person appointed as a secretary of the
 10 Board under Section 20;

(15) 'state' means the union territory of Delhi;

(16) 'temple' means a place by whatever designation known and used as a place of public worship and dedicated to or for the benefit of or used as of right by the Hindu community or any section
 15 thereof as a place of public religious worship;

(17) 'trustee' means a person in whom either alone or in association with other persons, the trust property is vested and includes a manager or a mutawalli;

(18) 'wakf' means the permanent dedication by a person professing Islam, of any property movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes a wakf by user but does not include a wakf such as is described in section 3 of the Mussalman Wakf Validating Act, 1913, under which any benefit is for the time being claimable
 VI of 1913, 25 for himself by the person by whom the wakf was created or by any member of his family or descendants;

(19) 'wakif' means a person who makes such a dedication as is referred to in clause 18;

(20) 'words and expressions' used but not defined in this Act and defined in the Indian Trusts Act, 1882, shall have the meanings assigned to them in that Act.
 II of 1882, 30

CHAPTER II

CHARITABLE PURPOSES AND VALIDITY OF CERTAIN PUBLIC TRUSTS

3. For the purpose of this Act, a charitable purpose includes,—

- 35 (1) relief of poverty or distress,
 (2) education,
 (3) medical relief,
 (4) help of widows, orphans or infirm persons,

Charitable purposes.

(5) maintenance of churches, gurdwaras, maqbaras, mosques, temples or other sites of religious importance,

(6) the advancement of any other object of general public utility,

but does not include a purpose which relates exclusively to sports. 5

Public Trust
not to be
void on
ground of
uncertainty.

4. Notwithstanding any law, custom or usage, a public trust shall not be void only on the ground that the persons or objects for the benefit of whom or which it is created are unascertained or unascertainable.

Explanation.—A public trust created for such objects as dharma, dharmada, punyakarya or punyadhan shall not be deemed to be void only on the ground that the objects for which it is created are unascertained or unascertainable. 10

Public Trust
not void on
ground that
it is void for
non-charitable
or
non-religious
purpose.

5. A public trust created for purposes some of which are charitable or religious and some are not shall not be deemed to be void 15 in respect to the charitable or religious purpose only on the ground that it is void with respect to the non-charitable or non-religious purpose.

Public Trust
not void on
ground of
absence of
obligation.

6. Any disposition of property for a religious or charitable purpose shall not be deemed to be void as a public trust only on 20 the ground that no obligation is annexed with such disposition requiring the person in whose favour it is made to hold it for the benefit of a religious or charitable object.

Public Trust
not void on
failure of
specific object
or Society etc.,
ceasing to exist.

7. If any public trust is created for a specific object of a charitable or religious nature or for the benefit of a society or institution 25 constituted for a charitable or religious purpose, such trust shall not be deemed to be void only on the ground—

(a) that the performance of the specific object for which the trust was created has become impossible or impracticable, or

(b) that the society or institution does not exist or has 30 ceased to exist, notwithstanding the fact that there was no intent for the appropriation of the trust property for a general charitable or religious purpose.

CHAPTER III

ESTABLISHMENT

35

Constitution
of the Board

8. (1) The Chief Commissioner may, by notification in the Official Gazette, establish in the State a Board to be called the Delhi Public Trusts Board for the purpose of carrying into effect the provisions of this Act. The Board shall be a body corporate and have perpetual succession and a common seal and may by the said name sue and be 40 sued.

(2) The Board shall consist of 22 members to be elected or nominated as prescribed hereunder:—

(i) five shall be members belonging to the Christian community out of whom—

5 (a) two shall be persons nominated by the Chief Commissioner;

(b) one shall be a person elected by a joint electorate of the members of the Local Bodies;

10 (c) two shall be persons elected by the public trusts belonging to the Christian Community registered under this Act.

(ii) nine shall be members belonging to Hindu community out of whom at least two shall be Jains and

15 (a) two shall be persons nominated by the Chief Commissioner;

(b) two shall be persons elected by a joint electorate consisting of the Hindu members of the Local Bodies;

20 (c) two shall be persons elected by the public trusts belonging to Hindu Community and registered under this Act.

(iii) four shall be members belonging to Muslim community out of whom:—

(a) one shall be a person nominated by the Chief Commissioner;

25 (b) one shall be a person elected by a joint electorate consisting of the members of the Local Bodies;

(c) one shall be a person elected by the Public trust belonging to the Muslim community and registered under this Act;

30 (d) one shall be a person elected by a joint electorate consisting of the members of:—

(i) Anjunman-e-Shiatua Safa, Delhi.

(ii) Anjuman Hussaini,

(iii) Anjuman-e-Isna Ashariya, New Delhi.

35 (iv) four shall be members belonging to the Sikh Community out of whom:—

(a) one shall be a person nominated by the Chief Commissioner,

40 (b) one shall be a person elected by a joint electorate consisting of members of the Local Bodies,

(c) two shall be persons elected by the public trusts belonging to Sikh community and registered under this Act.

(3) Notwithstanding anything contained in sub-section (9), in the case of first constitution of the Board, the Chief Commissioner may nominate the representatives of the public trusts and such 5 persons shall be deemed to have been duly elected under this Act.

(4) The election of members of the Board shall be held at such time and place and in such manner as may be prescribed.

(5) If any of the bodies referred to above fail to elect the requisite number of members within the time as may be fixed by the 10 Chief Commissioner, the deficiency shall be made by nomination by the Chief Commissioner.

Terms of
Office.

• 9. (1) Term of office of the members of the Board shall be five years commencing from the date at which first meeting of the Board is held after the members have been elected or nominated as provided in this Act and shall include any further period which may elapse between the expiration of the said five years and the date of the first meeting of the next succeeding Board at which a quorum is present.

(2) The outgoing members shall be eligible for re-nomination or 20 re-election.

Vacancies.

10. If a vacancy occurs in the office of a member of the Board through death, resignation, removal or disability of such member or otherwise, previous to the expiry of the period of his office, the vacancy shall be filled by election or nomination, as the case may 25 be. Any person so elected or nominated to fill the vacancy shall hold office only so long as the member in whose place he is nominated or elected would have held office if the vacancy had not occurred.

Resignation.

11. Any member may at any time resign his office by letter addressed to the Chairman. Such resignation shall take effect from 30 the date on which it is received by the Chairman.

Vacation of
office.

12. If any member, during the period for which he has been elected or nominated,—

(a) absents himself without such reasons as may in the opinion of the Board be sufficient from three consecutive 35 ordinary meetings of the Board, or

(b) becomes subject to any of the disqualifications mentioned in section 13, or

(c) refuses to act or becomes incapable of acting or acts in the manner which the Chief Commissioner considers after hearing any explanation that has been offered, to be prejudicial to the interests of the public trusts the Board shall declare his office to be vacant.

13. A person shall not be eligible to be or to remain a member of the Board if such person—

Disqualifications.

(a) is not a resident of the State during the three years preceding the date of his election or nomination;

(b) has not completed the age of 25 years before the date of his election or nomination;

(c) is not of sound mind;

(d) applies to be adjudged or is declared an insolvent;

(e) has been convicted of an offence involving moral turpitude; or

(f) holds any office of profit under any of the public trusts or the Board.

14. (1) The Chairman shall be elected by a majority of not less than two-thirds of the total number of members of the Board.

Chairman and Vice-Chairman.

(2) In case the Chairman cannot be elected in the manner aforesaid, the Chairman shall be nominated by the Chief Commissioner.

(3) The Board shall also elect four Vice-Chairmen belonging to each of the four communities namely Christians, Hindus, Muslims and Sikhs by a majority of not less than two-thirds of the members of the Board representing that community.

15. The names of the Chairman, Vice-Chairman and members of the Board shall be published in the Official Gazette.

Publication of the names of the Chairman, Vice-Chairman and Members.

16. No disqualification or defect in the election or nomination of any person acting as a member of the Board or as the Chairman, Vice-Chairman or presiding authority of a meeting shall be deemed to vitiate any act or proceeding of the Board in which such person has taken part.

Validity of proceedings.

17. The Board shall meet at such time and place and every meeting of the Board shall be summoned in such manner as may be prescribed:

Time and place of meeting of Board.

Provided that until so prescribed, it shall be lawful for the Chairman to summon a meeting of the Board at such time and place as he may deem expedient by a letter addressed to each member.

Procedure at
Meeting of
Board.

18. (1) The Chairman shall preside at every meeting of the Board. In the absence of the Chairman, the members present shall elect one of the Vice-Chairmen. If all the Vice-Chairmen are also absent, the members present shall elect one of them to preside.

(2) Where the powers of the Board are exercised by the members of a particular community only as provided in Explanation to section 21 the Vice-Chairman belonging to that community shall preside and exercise all the powers of the Chairman. 5

(3) All questions at a meeting of the Board shall be decided by the votes of the majority of the members present at the meeting. 10

Quorum of
the Meeting.

19. (1) The quorum of the meeting shall be one-half of the members of the Board. No quorum shall be necessary for a meeting adjourned for want of quorum.

(2) In the case of equality of votes, the Chairman shall have a second or casting vote. 15

Appoint-
ment of
Secretary,
Officers, and
other staff of
the Board.

20. (1) The Board shall, with the previous approval of the Chief Commissioner, appoint a Secretary. The Secretary shall receive such salary and allowances as may be prescribed. The Board may from time to time grant him leave and may appoint a person to act in his place in the manner aforesaid. 20

(2) Any person duly appointed to act as Secretary shall be deemed to be the Secretary for all the purposes of this Act.

(3) An order of the Board appointing, punishing or removing a Secretary from office shall not be passed without the previous approval of the Chief Commissioner. 25

(4) The Board may appoint such other officers and the staff as may be necessary for the purpose of this Act:

Provided that the number and designations of such officers and the staff, their salaries and allowances shall be subject to the previous approval of the Chief Commissioner. 30

Functions of
the Board.

21. (1) Subject to any rules that may be made under this Act, the general superintendence of all public trusts in the State registered under this Act shall vest in the Board; and it shall be the duty of the Board to exercise its powers under this Act so as to ensure that the public trusts under its superintendence are properly main- 35
tained, controlled and administered and the income thereof is duly applied to the objects and for the purposes for which such public trusts were created or intended.

(2) Without prejudice to the generality of the foregoing powers, the functions of the Board shall be:—

5 (a) to maintain a record containing information relating to the origin, income, object and beneficiaries of the public trusts;

(b) to require an auditor to forward to it a copy of a balance sheet and income and expenditure account;

(c) to keep and maintain such books, entries and other documents as may be prescribed;

10 (d) to hold an enquiry for any of the purposes mentioned in the Act;

(e) to record entries in the register and to make amendments to the said entries;

15 (f) to authorise its members or officers to enter on and inspect any trust property, to call for and inspect any proceedings of a trustee and to call for any return statement, account, or report from trustees or any person connected with public trust;

20 (g) to permit inspection of any statement, notice, intimation, information account, audit note or any other document;

(h) to permit a trustee to invest money of a public trust in any manner other than in public securities;

(i) to sanction a sale, mortgage, exchange, gift or lease of immovable property belonging to a public trust;

25 (j) to hold an enquiry in regard to any loss caused to a public trust;

(k) to give notice to a trustee for cypres application of the trust money or to make an application under section 51, and

30 (l) to exercise such other powers and to perform such other duties and functions as may be prescribed.

Explanation.—The function of the Board relating to public trusts belonging to Christians, Hindus, Muslims or Sikh Community shall be exercised by the member of the Board belonging to that community only:

35 Provided that where having regard to the subject under consideration and other circumstances, it appears to the Board that powers should not be exercised by such members only, it may co-opt such other members belonging to that community as it thinks fit, to be temporary members of the Board for the exercise of its
40 powers under this Act.

CHAPTER IV

CHARITY COMMISSIONER

Appoint-
ment of
Charity
Commis-
sioner.

22. The Chief Commissioner, may, by notification in the Official Gazette, appoint an officer to be called the Charity Commissioner who shall exercise such powers and shall perform such duties as are conferred by or under the provisions of this Act, and the rules made thereunder. 5

Qualifica-
tions for
appointment
of Charity
Commis-
sioner.

23. The Charity Commissioner shall be a person who is qualified to hold a judicial office not lower in rank than that of a District Judge. 10

CHAPTER V

REGISTRATION OF PUBLIC TRUSTS

Books, Indi-
ces and
Registers.

24. The Secretary shall maintain such books, indices, and other registers as may be prescribed. Such books, indices and registers shall contain such particulars as may be prescribed. 15

Registration
of Public
Trust.

25. (1) It shall be the duty of the trustee of a public trust to which this Act has been applied to make an application to the Board for the registration of the public trust.

(2) Such application shall be in writing and shall be in such form and shall be accompanied by such fee as may be prescribed. 20

(3) Such application shall be made within three months from the date of the application of this Act.

(4) Such application shall *inter alia* contain the following particulars, namely:—

(i) the names and addresses of the trustees and the 25
manager,

(ii) the mode of succession to the office of the trustee,

(iii) the list of the movable and immovable trust property, and such descriptions and particulars as may be sufficient for the identification thereof, 30

(iv) the approximate value of the movable and immovable property,

(v) the gross average annual income of the trust property estimated on the income of three years immediately preceding the date on which the application is made or of the period which 35
has elapsed since the creation of the trust, whichever period is shorter,

(vi) the amount of the average annual expenditure in connection with such public trust estimated on the expenditure incurred within the period to which the particulars under Clause (v) relate,

5 (vii) the address to which any communication to the trustees or manager in connection with the public trust may be sent,

(viii) such other particulars which may be prescribed:

10 Provided that the rules may provide that in the case of any or all public trusts it shall not be necessary to give the particulars of the trust property of such value and such kind as may be specified therein.

(5) Every application made under sub-section (1) shall be signed and verified in the prescribed manner by the trustee or his agent 15 specially authorised by him in this behalf. It shall be accompanied by a copy of an instrument of trust, if such instrument had been executed and is in existence.

26. (1) On the receipt of an application under section 25 or upon an application made by any person having interest in a public trust 20 or on its own motion, the Board or such other officer as the Board may appoint, shall make an enquiry in the prescribed manner for the purposes of ascertaining:—

(i) whether the trust is a public trust,

(ii) whether any property is the property of such trust,

25 (iii) whether the whole or any substantial portion of the subject matter of the trust is situated within the State,

(iv) the names and addresses of the trustees and manager of such trust,

30 (v) the mode of succession to the office of trustee of such trust,

(vi) the origin, nature and object of such trust,

(vii) the amount of gross average annual income and expenditure of such trust, and

(viii) any other particulars as may be prescribed.

35 (2) When an enquiry has been made by an officer authorised by the Board to make such enquiry, he shall submit his report to the Board.

Findings of
the Board.

27. (1) On completion of the enquiry provided for under section 26, the Secretary of the Board shall record the findings of the Board with the reasons thereof as to the matters mentioned in the said section.

(2) The appeal shall be from the decree of the Board and the Chief Commissioner. ⁵

Entries in
register.

28. (1) The Secretary shall make entries in the register kept under section 24 in accordance with the findings of the Board under section 27 or if appeals are made as provided by this Act, in accordance with the final decision of the appellate authority provided by this Act. ¹⁰

(2) The entries so made shall, subject to the provisions of this Act and subject to any change recorded under the following provisions, be final and conclusive.

Change

29. (1) Where any change occurs in any of the entries recorded in the register kept under section 21 the trustee shall, within 90 days from the date of the occurrence of such change, or where any change is desired in such entries in the interest of the administration of such public trust, report such change or proposed change to the Board. Such report shall be made in the form prescribed. ¹⁵ ²⁰

(2) For the purpose of verifying the correctness of the entries in the register kept under section 24 or ascertaining whether any change has occurred in any of the particulars recorded in the register, the Board or an officer authorised by the Board may hold an enquiry. ²⁵

(3) If the Board after receiving a report under sub-section (1) and holding an enquiry, if necessary, under sub-section (2), or merely after holding an enquiry under the said sub-section (2), is satisfied that a change has occurred in any of the entries recorded in the register kept under section 24 in regard to a particular public trust, it shall record a finding with the reasons therefor to that effect. Such finding shall be appealable to Charity Commissioner. The Secretary of the Board shall amend the entries in the said register in accordance with such findings and if appeals are made against such findings, in accordance with the final decision of the competent authority. The amendments in the entries so made shall, subject to any further amendments on the occurrence of a change, be final and conclusive. ³⁰ ³⁵

Court to
forward a
copy of decision to the
Board.

30. Any court of competent jurisdiction deciding any question relating to any public trust which by or under the provisions of this Act is not expressly or impliedly barred from deciding shall cause a copy of such decision to be sent to the Board and the ⁴⁰

Secretary of the Board shall cause the entries in the register kept under section 24 to be made or amended in regard to such public trust in accordance with such decision. The amendments so made shall not be altered except in cases where such decision has been
5 varied in appeal or revision by the Court of competent jurisdiction. Subject to such alterations, the amendments shall be final and conclusive.

31. (1) Where a public trust has been registered under the provisions of this Act it shall be the duty of the trustee to stamp or
10 endorse in the prescribed manner on each of the scrips which forms part of the property of the public trust, the name or description of the trust. The Board making the enquiry under this section shall satisfy that each of such scrips has been so stamped or endorsed. If the Board finds that they are not so stamped or
15 endorsed, it shall require them to be so stamped or endorsed.

Duty of trustee to stamp and endorse scrips.

(2) In the case of scrips which may become the property of a public trust after its registration under this Act, it shall be the duty of the trustee to stamp or endorse them in the manner referred to in sub-section (1) within 15 days from the date on which such
20 scrips have come into his possession. If before the expiry of the said period of 15 days any of such scrips are to be sold, pledged or otherwise transferred, the trustee shall stamp or endorse them in the manner referred to in sub-section (1) before such sale, pledge or transfer is effected.

25 (3) Notwithstanding anything contained in sub-sections (1) and (2), the Board may at any time, in order to satisfy itself that any of the scrips which are the property of a public trust have been stamped or endorsed in the manner referred to in sub-section (1), require the trustee to produce for its inspection and the scrips
30 which are the property of a public trust and may, if such scrips are found not to have been so stamped or endorsed, require them to be so stamped or endorsed.

32. Any person acquiring any immovable property or scrips belonging to a public trust which has been registered under this
35 chapter or any part of or any share or interest in such property or scrip of such trust shall be deemed to have notice of the relevant particulars relating to such trust entered in the register.

Notice of particulars of immovable property and scrips entered in register.

33. (1) No suit to enforce a right on behalf of a public trust to which this Act applies and which has not been registered under
40 this Act shall be heard or decided in any court.

Bar to hear or decide suits.

(2) The provisions of sub-section (1) shall apply to a claim of set off or other proceeding to enforce a right on behalf of such public trust.

CHAPTER VI

ACCOUNTS AND AUDIT

Maintenance
of accounts.

34. (1) Every trustee of a public trust which has been registered under this Act and the Board shall keep regular accounts.

(2) The accounts shall be kept in such form and shall contain such particulars as may be prescribed. 5

Balancing
and auditing
of accounts.

35. (1) The accounts kept under Section 34 shall be balanced each year on the 31st day of March or such other date, as may be prescribed.

(2) The Charity Commissioner shall appoint an Auditor who shall audit the accounts in the manner prescribed. 10

(3) Every auditor acting under sub-section (2) shall have access to the accounts and to all books, deeds, vouchers, other documents and records in the possession of or under the control of the trustee or the Board, as the case may be, and may require any person holding or accountable for any such books, deeds, vouchers, documents or records to appear before him at any such audit and answer all questions which may be put to him with respect to the same or submit any further statement which such auditor may consider necessary. 20

Auditor's
duty to pre-
pare balance
sheet and to
report irre-
gularities, etc.

36. (1) It shall be the duty of every auditor auditing the accounts under section 35 to prepare a balance sheet and income and expenditure account and to forward a copy of the same to the Board.

(2) The auditor shall in his report specify all cases of irregular, illegal or improper expenditure, or failure, omission to recover moneys or other property or of loss or waste of money or other property and state whether such expenditure, failure, omission, loss or waste was caused in consequence of a breach of trust, or misapplication or any other misconduct on the part of the trustees or the Board or any other person. 30

(3) The Board shall cause the reports and abstracts of such accounts to be published in such newspapers printed and published in the State in such language as may be prescribed.

Explanation
on report of
auditor.

37. (1) On receipt of a report of the auditor under section 36, the Board may require the trustee or any other person concerned to submit an explanation thereon within such period as it thinks fit. 35

Considera-
tion of the
report.

38. If, on the consideration of the report of the auditor, the accounts and explanation, if any, furnished by the trustee or any other person, the Board after holding an enquiry in the prescribed 40

manner is satisfied that the trustee or any other person has been guilty of gross negligence, breach of trust, misapplication or misconduct which has resulted in the loss to the public trust or loss to the Board it shall report the matter to the Charity Commissioner and shall pass such order as it deems proper.

39. The Charity Commissioner shall after considering the report of the Board and after giving an opportunity to the person concerned and holding such enquiry as the Charity Commissioner thinks fit determine:—

Decision of the Charity Commissioner on report under Section 38.

(a) the amount of loss caused to a public trust or the Board;

(b) whether such loss was due to any breach of trust, misapplication or misconduct on the part of any person;

(c) whether any trustee or any other person was responsible for such loss;

(d) the amount which any of the trustees or any other person is liable to pay to the public trust or the Board for such loss.

40. (1) If the Charity Commissioner decides that any person is liable to pay to the public trust or to the Board any amount for the loss caused to the trust or the Board, the Charity Commissioner may direct that the amount shall be surcharged on the person.

Order of surcharge.

(2) Subject to the provisions of Section 60, the order of the Charity Commissioner under sub-section (1) shall be final and conclusive.

41. (1) The Charity Commissioner shall pass orders regarding payment of expenses incurred in the audit and examination of accounts.

Payment of expenses.

(2) If payment referred to in sub-section (1) is not made within three months from the date of the orders passed by the Charity Commissioner under sub-section (1), the Chief Commissioner may on application to him being made within six months from such date by the auditor recover the amount due as it were an arrear of land revenue.

CHAPTER VII

CONTROL

42. The Board may by a general or special order authorise one of its members or any officer

Power of inspection and supervision.

(a) to enter on and inspect or cause to be entered on and inspect any property belonging to a public trust;

(b) to call for or inspect any extract from any proceedings of the trustee of any public trust and any book or account in the possession of or under the control of the trustee;

(c) to call for any return, statement, account or report which he may think fit from the trustee or any person connected with a public trust: 5

Provided that in entering upon any property belonging to the public trust the officer making the entry shall give reasonable notice to the trustee and shall have due regard to the religious practices or usages of the trust. 10

Investment
of Public
trust money.

43. Where the property consists of money and cannot be applied immediately or at an early date to the purposes of the public trust, the trustee is bound (subject to any direction contained in the instrument of trust) to invest the money in public securities:

Provided that such money may be invested in the first mortgage of immovable property situate in the State if the property is not lease-hold and the value of the property exceeds by one-half the mortgage money: 15

Provided further that the Board may by general or special order permit the trustee of any public trust or classes of such trusts to invest the money in any other manner. 20

Alienation of
immovable
property of
public trust.

44. Subject to the directions in the instrument of trust

(a) no sale, mortgage, exchange or gift of any immovable property, and

(b) no lease for a period exceeding 10 years in the case of agricultural land or for a period exceeding three years in the case of non-agricultural land or building, 25

belonging to a public trust shall be valid without the previous sanction of the Board.

Power of the
Charity Com-
missioner to
appoint new
trustee or
trustees as
the case may
be.

45. (1) Any person interested in a public trust or the Board may apply to the Charity Commissioner for the appointment of a new trustee, when a trustee of such trust 30

(a) disclaims or dies;

(b) is for a continuous period of six months absent from India without the leave of the Board or the Officer authorised by the Board in this behalf; 35

(c) leaves India for the purpose of residing abroad;

(d) is declared an insolvent;

(e) desires to be discharged from the trust;

(f) refuses to act as a trustee;

(g) becomes in the opinion of the Charity Commissioner unfit or physically incapable to act in the trust or accepts an inconsistent trust; or

5 (h) In any of the cases mentioned in Chapter II is not available to administer the trust.

(2) No such application shall be entered—

10 (a) unless the trustee who on account of any of the reasons mentioned in clauses (a) to (h) of sub-section (1) is not fit or available to administer the trust is the sole trustee or unless the vacation of office by one or more trustees on account of any of the said reasons the minimum number of trustees required by the instrument, scheme, order or decree of the court or usage or custom of the trust for the administration
15 of the trust is reduced;

(b) (i) Until the expiration of a period of three months from the date on which the trustee is not so fit or available to administer the trust; and (ii) if a new trustee has been appointed in the said office during the said period in accordance with
20 the instrument, scheme, order or decree of the Court, or custom or usage of the trust.

(3) The Charity Commissioner after making an enquiry may appoint any other person as a trustee to fill up the vacancy.

(4) In appointing the trustee under sub-section (3) the Charity
25 Commissioner shall have regard—

(a) to the wishes of the author of the trust;

(b) to the wishes of the person, if any, empowered to appoint a new trust;

30 (c) to the question whether the appointment will promote or impede the execution of the trust;

(d) to the interest of the public or the section of the public who have interest in the trust; and

(e) to the custom and usage of the trust.

(5) An appeal shall lie to the Chief Commissioner or such
35 authority as he may appoint from the decision of the Charity Commissioner under sub-section (3) and subject to the result of such appeal the decision of the Charity Commissioner shall be final.

Claims
relating to
public trust.

46. In any case:—

(i) where it is alleged that there is a breach of public trust; or

(ii) where a declaration is necessary that a particular property is a property belonging to a public trust or where a direction is required to recover the possession of such property from any person including a person holding adversely to a public trust, the Board or two or more persons having an interest in the public trust and having obtained the consent in writing of the Board as provided in section 47 may file an application whether contentious or not to the Charity Commissioner to obtain an order for any of the following reliefs, namely:—

(a) an order for the recovery of the possession of such property, or

(b) the removal of any trustee or manager, or

(c) the appointment of a new trustee or manager, or

(d) a direction for taking accounts and making certain enquiries,

(e) a declaration as to what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust, or

(f) a direction authorising the whole or any part of the trust property to be let, sold, mortgaged or exchanged, or

(g) the settlement of a scheme or variations or alterations in a scheme already settled, or

(h) granting such further or other relief as the nature of the case may require:

Provided no application claiming any of the reliefs specified in this section shall be filed in respect of any public trust except in conformity with the provisions thereof.

Consent of
the Board
for filing of
application.

47. (1) If the persons having an interest in any public trust intend to file an application of the nature specified in section 46, they shall apply to the Board in writing for the consent of the Board. The Board after hearing the parties and after making such enquiry as it thinks fit, may within a period of six months from the date on which the application is made, grant or refuse its consent to the filing of the application. The order of the Board refusing to give consent shall be in writing and shall state the reasons for the refusal.

(2) If the Board refuses to give consent to the filing of the application under sub-section (1) the persons applying for such consent may file an appeal to the Charity Commissioner in the manner provided by this Act.

5 (3) An appeal under sub-section 2 shall be filed within sixty days from the date of the decision of the Board and shall be in such form and accompanied by such fee as may be prescribed.

(4) The Charity Commissioner may, after making such inquiry as he thinks fit, confirm, revoke or modify the decision of the Board.

10 (5) In every application filed by persons having interest in any trust under section 46, the Board shall be a necessary party.

(6) Subject to the decision of the Charity Commissioner any appeal under section 59, the decision of the Board under sub-section (1) shall be final and conclusive.

V of 1908 15 48. Notwithstanding anything contained in the Code of Civil Procedure, 1908, the provisions of sections 92 and 93 of the said Code shall not apply to the public trust to which this Act applies.

Non-application of section 92 and 93 of Civil Procedure Code to public trust

20 49. (1) Where under any will a bequest has been made in favour of a public trust or where such bequest itself creates a public trust, it shall be the duty of the executor under the will to forward a copy thereof to the Board.

Bequest under will for benefit of public trust.

25 (2) No probate of any such will or letters of administration with such will annexed shall be granted by any court whatsoever unless it is satisfied that a copy of such will has been forwarded to the Board as provided by sub-section (1).

30 50. (1) Where according to the custom or usage of any business or trade or the agreement between the parties relating to any transaction any amount is charged to any party to the said transaction or collected under whatever name, as being intended to be used for a charitable or religious purpose the amount so charged or collected shall vest in the person charging or collecting the same as a trustee.

Dharmada.

35 (2) Any person charging or collecting such enquiry as it thinks fit to verify the correctness of the account in such form as may be prescribed to the Board.

(3) The Board shall have power to make such enquiry as it thinks fit to verify the correctness of the account submitted and may pass order for the disposal of the amount in the matter prescribed.

Cypres.

51. (1) If at any time the Board is of opinion that

(a) the original object for which the public trust was created has failed;

(b) the income or any surplus balance of any public trust has not been utilized or is not likely to be utilized; 5

(c) in any of the cases mentioned in sections 4, 5, 6 and 7 or in regard to the appropriation of the Dharmada sums held in trust under section 50 the directions of the Charity Commissioner are necessary, the Board shall give notice in writing to the trustees to apply to the Charity Commissioner within time 10 prescribed for directions.

(2) If the trustees fail to make the application as required under sub-section (1) or if there is no trustee of the public trust, the Board shall make an application to the Charity Commissioner.

Power of the
Charity Com-
missioner to
hear applica-
tions.

52. (1) On such application being made, the Charity Commis- 15 sioner after hearing the parties and making an enquiry shall decide the matter and shall give directions. In giving the directions, the Charity Commissioner, shall, so far as may be expedient, practicable, desirable or necessary in public interest give effect to the original intention of the author of the public trust or the object for 20 which the public trust was created.

(2) An appeal shall lie to the Chief Commissioner from any decision or order passed by the Charity Commissioner under sub-section (1) and subject to the result of such appeal the decision of the Charity Commissioner shall be final. 25

Public
Trusts Ad-
ministration
Fund.

53. (1) There shall be established a fund to be called the Public Trusts Administration Fund. The Fund shall vest in the Board.

(2) The following sums shall be credited to the said Fund, namely:

(a) fees and administrative charges leviable under Section 30 25;

(b) contributions made under Section 54;

or

(c) any sum received from a private person;

(d) any sum allotted by the Chief Commissioner or any 35 local authority; and

(e) any other sum which may be directed to be credited by or under the provisions of this Act.

Contribu-
tions by pub-
lic trusts
to Public
Trusts Ad-
ministration
Fund.

54. Every public trust shall pay to the Public Trusts Administra- tion Fund annually such contributions on such date and in such 40 manner as may be prescribed;

Provided that the contribution prescribed under this Section shall be fixed at the rates in proportion to the gross annual income of the public trust.

55. (1) If the trustee of a public trust fails to pay the contribution under section 54 he shall be liable to penalties provided in section 57. Penalties as recovery of contribution.

(2) The Board may also make an order directing the bank in which or any person with whom any moneys belonging to the public trust is deposited to pay the contribution from such moneys as may be standing to the credit of the public trust or may be in the hands of such person or may from time to time be recovered from or on behalf of the public trust by way of deposit by such bank or person and such bank or person shall be bound to obey such order.

Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the public trust in respect of any sum or sums so paid by it or him out of the moneys belonging to the public trusts so deposited with the bank or person.

(3) Any bank or person who has been ordered under sub-section (2) to make the payment may appeal to the Charity Commissioner who may, after making such enquiry as he thinks fit, confirm, modify or cancel such order.

56. (1) The Public Trusts Administration Fund shall, subject to the provisions of this Act and subject to the general or special order of the Chief Commissioner, be applicable to the payment of charges for expenses incidental to the regulation of public trusts and generally for carrying into effect the provisions of this Act. Application of Public Trusts Administration Fund.

(2) The custody and investment of the moneys to be credited to the Public Trusts Administration Fund and the disbursement and payment therefrom shall be regulated and made in the prescribed manner.

CHAPTER VIII

OFFENCES AND PENALTIES

57. Whoever contravenes any provision of any of the sections mentioned in the first column of the following table shall, on conviction, for each such offence, be, punished with fine which may extend to the amount mentioned in that behalf in the third column of the said table. Penalty.

Explanation.—The entries in the second column of the table are not intended as the definitions of offences described in the section

mentioned in the first column or even as abstracts of those sections, but are inserted merely as reference to the subject of the sections, the number of which are given in the first column:

TABLE

Section	Subject	Fine which may be imposed	
1	2	3	
		Rs.	
Section 25	Duty of trustee to make an application for the registration of a public trust within the time provided	1,000	10
Section 29	Failure to report a change.	1,000	
Section 31	Duty of trustee to stamp or endorse scrips.	1,000	
Section 34	Maintenance of regular account.	1,000	15
Section 43	Failure or omission to invest money in public securities.	1,000	
Section 55	Failure to pay contribution under section 58 by a trustee.	1,000	

Other offences.

58. Whoever contravenes any of the provisions of this Act or the rules for which no specific penalty has been provided by this Act, shall on conviction, be punishable with fine which may extend to Rupees five hundred.

CHAPTER IX

APPEALS AND ENQUIRIES

25

Appeals from the findings of the Board.

59. (1) An appeal against the finding of the Board may be filed to the Charity Commissioner in the following cases:—

- (a) the finding under section 27;
- (b) the finding under section 29;
- (c) the order under sub-section (3) of Section 50.

30

(2) No appeal shall be maintainable after the expiration of 60 days from the recording of the finding or the passing of the order, as the case may be.

(3) The Charity Commissioner may, after hearing the appellant or any person appearing on his behalf, for reasons to be recorded in writing either annul, reverse, modify or confirm the finding of the order appealed against or he may direct the Board to make further

35

enquiry or to take such additional evidence as he may think necessary for he may himself take such additional evidence.

60. (1) Any person aggrieved by the decision of the Charity Commissioner under Sections 39, 40, 45, 47 or on the question whether a trust is a public trust may within 60 days from the date of the decision appeal to the Chief Commissioner or such other authority as he may appoint in this behalf to set aside the said decision. Appeal from Charity Commissioners' decision under Sections 39, 40, 45 and 47.

(2) The Chief Commissioner or the authority appointed in this behalf may confirm, revoke or modify the decision or remit the amount of surcharge or make such orders as to costs as it thinks proper in the circumstances.

(3) Pending the disposal of an application under sub-section (2) all proceedings for surcharge shall be stayed if the person aggrieved makes out a *prime facie* case for a stay order.

61. In holding enquiries under this Act, the authority holding the same shall have the same powers as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908 in trying a suit— Officers holding enquiries to have powers of Civil Court.

(a) proof or facts by affidavits,

(b) summoning and enforcing the attendance of any person and his examination on oath,

(c) compelling the production of documents,

(d) issuing of commissions.

62. All enquiries and appeals under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code, 1860. Enquiries to be judicial enquiries.

63. In computing the period of appeal under this Chapter, the provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908 shall apply to the filing of such appeals. Limitation.

64. Save in so far as they may be inconsistent with anything contained in this Act the provisions of the Code of Civil Procedure, 1908 shall apply to all proceedings before the Charity Commissioner or the Chief Commissioner under this Act. Civil Procedure Code to apply to proceedings under this Act.

65. All sums payable under sections 25 and 40 or under any rule if not paid, shall notwithstanding anything contained in any law be recoverable as an arrear of land revenue. Recovery of sums due under Sections 25 and 43 or Rules.

CHAPTER X

MISCELLANEOUS

Charity
Commissioner, Mem-
bers of the
Board and
other officers
to be public
servants.

66. The Charity Commissioner, members of the Board, Secretary and other officers and other staff appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

5
XLV of
1860.

Decision of
property as
Public Trust
Property.

67. (1) Any question, whether or not a trust is a public trust or a particular property is the property of such trust shall be decided by the Charity Commissioner.

(2) The decision of the Charity Commissioner shall unless set aside on appeal by the Chief Commissioner, be final and conclusive.

Bar of juris-
diction.

68. Civil Court shall have jurisdiction to decide or deal with any question which is by or under this Act to be decided or dealt with by any Board, officer or authority under this Act, or in respect of which a decision or order of such officer or authority has been made final and conclusive.

Indefiniteness
from suits
and proceed-
ings.

69. No suit, prosecution or other proceedings shall be instituted against the Government, Board or any officer or authority in respect of anything in good faith done or purporting to be done under this Act.

Trial of
offences un-
der this Act.

70. No court inferior to that of a Magistrate of the 1st Class shall try an offence punishable under this Act.

Previous
sanction of
the Board
necessary for
prosecution.

71. No prosecution for an offence punishable under this Act shall be instituted without the previous sanction of the Charity Commissioner.

Rules.

72. (1) The Chief Commissioner may make rules for the purpose of carrying into effect the provisions of the Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following matters; namely,—

(a) the manner of publishing the notification under sub-section (4) of section 1;

(b) the powers, duties and functions of the officers other than the Charity Commissioner or the Board appointed under this Act in addition to those provided for in this Act;

35

(c) the books, indices and registers to be kept and maintained by the Board and the particulars to be entered in such books, indices and registers under section 24;

5 (d) the form in which an application for the registration of a public trust is to be made and the fee to be paid for the same, the other particulars to be entered therein and the manner in which an application for such registration is to be signed and verified and the value and kind of Trust property in respect of which it shall not be necessary to give particulars
10 under Section 25;

(e) the manner in which an enquiry has to be made by the Board under Section 26;

(f) the form in which the Board has to make a report regarding the change under Section 29;

15 (g) the book in which the Board shall make an entry under Section 28;

(h) the manner of stamping or endorsing on the scrips under sub-section (1) of Section 31;

20 (i) the particulars to be entered in the accounts under sub-section (2) of Section 34;

(j) the manner of notifying contents of the will under Section 49;

(k) the administrative charges to be levied under sub-section (1) of Section 25;

25 (l) the form of account to be submitted under sub-section (2) and the manner of passing order under sub-section (3) of Section 35;

(m) the time within which trustees may apply to the Charity Commissioner for directions under Part ii of Section 46;

30 (n) the date on which and the manner in which and the amount of contribution which every public trust shall pay annually under section 54; and the manner in which the custody and investment of, and the disbursement and payment from, such fund shall be made under section 56;

35 (o) the other powers, duties and functions to be exercised and performed by the Board under Section 21;

(p) the other powers, duties and functions to be performed by the Charity Commissioner;

(q) the form of appeal and fee to be paid for filing such appeal under Section 47;

(r) the custody and investment of the money to be credited to the Public Trusts Administration Fund and the disbursement and payment therefrom; 5

(s) any other matter which is to be or may be prescribed under this Act.

(3) All rules made under this section shall be subject to the condition of previous publication.

Act XX of 1863. 73. The following Acts shall not apply to the public religious and charitable trusts to which this Act applies. 10

Act XIII of 1943.
Act XIV of 1920 not to apply to public religious and charitable trusts.

(1) The Religious Endowments Act, 1863.

XX or 1863.

(2) The Delhi Muslim Wakf Act, 1943.

XIII of 1943.

(3) The Charitable and Religious Trusts Act, 1920.

XIV of 1920.

Such non-application or cessation shall not in any way affect— 15

(a) any right, title, interest, obligation or liability already acquired, accrued or incurred before the date of the application of this Act.

(b) any legal proceedings or remedy in respect of such right, title, interest, obligation or liability, or 20

(c) anything duly done or suffered before the date of the application of this Act.

STATEMENT OF OBJECTS AND REASONS

Delhi has remained for centuries the capital of India both under Hindu and Muslim rule. The Hindu and Muslim Kings, nobles, chiefs, id-gahs and established khankas, dargahs and cemeteries and created numerous trusts for their maintenance.

2. There is a wide-spread dissatisfaction with the management of these trusts. Since 1810 various enactments have from time to time been passed with a view to control them, in order that they may serve the purpose for which they have been created. These enactments have, however, failed to achieve their purpose. It is necessary that a uniform law should be enacted to ensure proper administration of all such trusts.

3. The object of this Bill is therefore to ensure the proper administration of all such trusts in accordance with the wishes of their founders, and to establishment of Boards which shall have the power to do all things considered reasonable and necessary for the proper superintendence and control of the trusts belonging to the particular community, represented by that particular Board. In order to safeguard their rights, interested persons who may be dissatisfied with the decision of the Board will have a right of appeal to the Charity Commissioner. A provision has been made to confer a right of appeal from the decisions of the Charity Commissioner so that errors in the decisions of the Charity Commissioner can be rectified by such appeals.

NEW DELHI;

RADHA RAMAN.

The 29th July, 1957.

EXPLANATORY MEMORANDUM REGARDING DELEGATED
LEGISLATION.

Clause 72 of the Bill empowers the Chief Commissioner to make rules for regulating the powers, duties and functions of the officers, the manner of publishing the notification under sub-section (4) of section 1, the custody and investment of the money to be credited to the Public Trusts Administration Fund and the disbursement and payment therefrom and generally for the purpose of carrying into effect the provisions of the Act. All these matters are matters of administrative detail necessary for the day to day administration of the Act. The delegation of legislative power is thus of the normal type because it is both difficult and unnecessary to provide for these details in the enactment itself.

BILL NO. 61 OF 1957

A Bill further to amend the Code of Criminal Procedure, 1898.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure Amendment) Act, 19 Short title
and com-
mencement.

5 (2) It shall come into force at once.

V of 1898. 2. Section 516 A of the Code of Criminal Procedure 1898 (herein-
after referred to as the principal Act) shall be renumbered as sub-
section (1) of that section and after sub-section (1) as so renumbered
the following new sub-section shall be added namely:— Amendment
of section
516 A.

10 “(2) In the case of every order passed under this section an
appeal shall lie to the Court of Sessions.”

3. In section 517 of the principal Act; after sub-section (4), the
following new sub-section shall be inserted namely:— Amendment
of section
517.

15 “(5) in the case of every order passed under this section an
appeal shall lie to the Court of Sessions irrespective of the
sentences passed by the trial court.”

STATEMENT OF OBJECTS AND REASONS

At present there is no provision for an appeal to a Court of Session in a case falling under sections 516 A and 517 of the Code of Criminal Procedure, 1898 which acts as a great hardship to litigants.

This Bill is intended to remove this defect.

NEW DELHI;

SUBIMAN GHOSE.

The 30th July, 1957.

BILL No. 64 OF 1957

A Bill further to amend the Dramatic Performances Act, 1876.

Be it enacted by Parliament in the Eighth year of the Republic of India as follows:—

1. (1) This Act may be called the Dramatic Performances (Amendment) Act, 19 .

Short title,
extent and
commence-
ment.

5 (2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

2. In Section 3 of the Dramatic Performances Act, 1876, (hereinafter referred to as the Principal Act),—

Amendment
of section 3.

10 (1) in part (a) the words “or defamatory” shall be omitted;

(2) part (b) shall be omitted; and

(3) in part (c) the following shall be omitted namely:—

“or outside the Presidency-towns, the State Government,
or such magistrate as it may empower in this behalf”.

15 3. In Section 7 of the Principal Act the words “or such officer as it may specially empower in this behalf” shall be omitted.

Amendment
of section 7.

Substitution
of section 8.

4. For Section 8 of the Principal Act the following shall be substituted namely:—

Power to
authorise a
police officer
to enter,
arrest and
seize.

“8. If the Government has reason to believe that any house, room or place is used or is about to be used for any performance prohibited under this Act, the Government may authorise, for reasons recorded in writing, a police officer not below the rank of a Sub-Inspector, to enter with such assistance as he may require, by night or by day and by force, if necessary, any such house, room or place, and to take into custody all persons directly connected with such performance and also seize such of the scenery, dresses, or other articles found therein and reasonably suspected to have been used or intended to be used for the purpose of such performance”.

Substitution
of section 12.

5. For Section 12 of the Principal Act the following shall be substituted. namely:—

Appeal.

“12. Any person aggrieved by any order passed or action taken against him by the Government under this Act may appeal to the High Court of the State concerned and the High Court may pass such orders or take such steps as it deems necessary”.

STATEMENT OF OBJECTS AND REASONS

The Dramatic Performances Act, 1876, contains certain provisions which are detrimental to the growth and progress of the Indian Drama. In the pre-independence days, the provisions of this Act were often used with the object of stifling the drama in India which was a powerful medium of expression of national sentiments and aspirations. In order to enable the Indian drama to grow and achieve the progress which is due to it, the law requires revision. Hence this Bill.

A provision has also been made for appeal so as to protect the rights of persons aggrieved by action taken against them under this Act.

Jatras and performances of a like nature at religious festivals have also been brought within the ambit of the enactment.

V. P. NAYAR.

NEW DELHI;

The 30th July, 1957.

BILL No. 58 OF 1957

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

- Short title. 1. This Act may be called the Constitution (Amendment) Act,
19
- Amendment of Article 100. 2. In article 100 of the Constitution,—
5
 (i) In clause (3), for the words “Until Parliament by law otherwise provides”, the words “Save as otherwise provided by rules regulating the procedure of the House” shall be substituted; and
 (ii) clause (4) shall be omitted.
- Amendment of Article 189. 3. In article 189 of the Constitution,—
10
 (i) In clause (3), for the words “Until the Legislature of the State by Law otherwise provides”, the words “Save as otherwise provided by rules regulating the procedure of the House” shall be substituted; and
 (ii) clause (4) shall be omitted.
15

STATEMENT OF OBJECTS AND REASONS

Quorum of either House of Parliament and either House of a State Legislature is governed by provisions in Articles 100 and 189 of the Constitution of India. In actual practice, it has been found that great difficulties are experienced. The Speaker of the Lok Sabha or a State Legislature, or the Chairman of the Rajya Sabha or of a State Legislative Council or a person acting as such is burdened with a duty either to adjourn the House or to suspend the meeting whenever there is no quorum. This causes difficulties in conducting the proceedings of the House. Such rigid and detailed provision in the Constitution itself ought not to be there. It is sufficient if it is provided that the quorum shall be one tenth of the total strength of the House. The rest should be left to be regulated by rules of procedure of the House.

In order to obviate these difficulties, clauses 2 and 3 of the Bill seek to amend Articles 100 and 189 of the Constitution of India.

M. L. DWIVEDI

NEW DELHI;
The 30th July, 1957.

BILL No. 67 OF 1957

A Bill further to amend the Companies Act, 1956.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Companies (Amendment) Act, 19

Amendment
of section
293.

2. (1) For clause (e) of sub-section 1, of Section 293, of the Companies Act, 1956 (hereinafter referred to as the principal Act), the following new clause shall be substituted, namely:— 5 of 1956.

“(e) contribute, after the commencement of the Act, to charitable funds not directly relating to the business of the Company or the welfare of its employees an amount not exceeding twenty-five thousand rupees or five per cent of its average net profits as determined in accordance with the provisions of Sections 348 and 350 during the three financial years, immediately preceding, whichever is greater.” 10

(2) After sub-section (1) of section 293 of the principal Act, the following new sub-section shall be inserted and numbered as sub-section (2) of that section and sub-sections 2, 3, 4 and 5 of that section shall be renumbered as sub-sections 3, 4, 5 and 6 respectively,— 15

“(2) Notwithstanding any other law for the time being in force, no company shall subscribe to, or contribute directly or indirectly, to any political party or organisation having political aims or objects, either by themselves or along with other social, charitable or other objects, any sum of money, gift, donation or service or any benefit or contribution capable of being evaluated in terms of money.” 20 25

3. After Section 624 of the principal Act, the following new section shall be inserted namely:—

Insertion of
new Section
624 A.

5 "624A. Notwithstanding any law for the time being in force where an offence appears to have been committed under sub-clause (2) of Section 293 of the Act, any person, whether a shareholder or not, and whether having any interest in the Company or not, may present a complaint to a Court not inferior to that of a Presidency Magistrate, or a Magistrate of the First Class and such complaint shall be inquired into.

Complaint
to court.

10 Any person, against whom such offence is proved, shall on conviction, be punished with imprisonment of either description, which may extend to two years, or with fine or with both."

STATEMENT OF OBJECTS AND REASONS

Since the enactment of the Companies Act, 1956 authorising Companies to make financial contribution to political parties, two judgments have been delivered, one by the Calcutta High Court on an application of the Indian Iron & Steel Co. for amendment of its Memorandum of Association and the other by the Bombay High Court on a similar application by Tata Iron & Steel Co.

2. Both the judgments point out certain lacunae in the Act regarding payment of such contributions to political parties, and dangers arising therefrom.

3. The Bombay High Court has also suggested certain minimum safeguards to be incorporated in the Companies Act, 1956, for mitigating the mischief of Section 293(e) thereof.

4. Hence the substitution of this Section by another forbidding political contributions is necessary. The Bill seeks to attain this object.

NAUSHIR BHARUCHA

NEW DELHI;
The 6th August, 1957.

M. N. KAUL,
Secretary.